

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **HB 2070**, on page 1, following line 14, by inserting:

"Sec. 2. K.S.A. 2010 Supp. 26-507 is hereby amended to read as follows: 26-507. (a) Payment of award; vesting of rights. If the plaintiff desires to continue with the proceeding as to particular tracts the plaintiff, within 30 days from the time the appraisers' report is filed, shall pay to the clerk of the district court the amount of the appraisers' award as to those particular tracts and court costs accrued to date, including appraisers' fees. Except as provided in subsection (c) of K.S.A. 26-508, and amendments thereto, such payment shall be without prejudice to plaintiff's right to appeal from the appraisers' award. Except as provided further, upon such payment being made, the title, easement or interest appropriated in the land condemned shall thereupon immediately vest in the plaintiff, and it shall be entitled to the immediate possession of the land to the extent necessary for the purpose for which taken and consistent with the title, easement or interest condemned. If such property contains a defendant's personal property, a defendant shall have 14 days from the date such payment is made to the clerk of the district court to remove such personal property from the premises. The plaintiff shall be entitled to all the remedies provided by law for the securing of such possession. The clerk of the district court shall notify the interested parties that the appraisers' award has been paid and that the defendant shall have 14 days from the payment date to remove personal property from the premises.

(b) Abandonment. If the plaintiff does not make the payment prescribed in subsection (a) for any of the tracts described in the petition, within 30 days, from the time the appraisers' report is filed, the condemnation is abandoned as to those tracts, and judgment for costs, including the appraisers' fees together with judgment in favor of the defendant for the reasonable expenses incurred in defense of the

action, shall be entered against the plaintiff. After such payment is made by the plaintiff to the clerk of the court, as provided in subsection (a), the proceedings as to those tracts for which payment has been made can only be abandoned by the mutual consent of the plaintiff and the parties interested in the award.

Sec. 3. K.S.A. 2010 Supp. 26-508 is hereby amended to read as follows: 26-508. (a) Except as provided in subsection (c), if the plaintiff, or any defendant, is dissatisfied with the award of the appraisers, such party, within 30 days after the filing of the appraisers' report, may appeal from the award by filing a written notice of appeal with the clerk of the district court. The appeal shall be deemed perfected upon the filing of the notice of appeal. In the event any parties shall perfect an appeal, copies of such notice of appeal shall be mailed to all parties affected by such appeal, within seven days after the date of the perfection thereof. An appeal by the plaintiff or any defendant shall bring the issue of damages to all interests in the tract before the court for trial de novo. The appeal shall be docketed as a new civil action, the docket fee of a new court action shall be collected and the appeal shall be tried as any other civil action. The only issue to be determined therein shall be the compensation required by K.S.A. 26-513, and amendments thereto.

(b) This section, as amended by this act, shall be construed and applied prospectively, as well as retroactively to July 1, 2003, and shall apply to all eminent domain proceedings pending on or commenced after July 1, 2003.

(c) (1) The department of transportation through the secretary of transportation, as plaintiff, shall not have the right to appeal from the appraiser's award.

(2) This subsection shall be construed and applied prospectively, as well as retroactively to January 1, 2009, and shall apply to all eminent domain proceedings pending on or commenced after January 1, 2009.";

And by renumbering sections accordingly;

On page 1, in line 15, after "Supp." by inserting "26-507, 26-508 and"; also in line 15, by striking "is " and inserting "are";

In the title, in line 1, by striking "notification of payment"; in line 2, by striking "of"; also in line 2, by inserting after "award""", notification and restrictions"; also in line 2, after "Supp." by inserting "26-507, 26-508 and"; in line 3, by striking "section" and inserting "sections"

_____ District.